

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert D. Hill

Title: METHOD OF MODIFYING PLANT
PHENOTYPES WITH NONSYMBIOTIC
HEMOGLOBIN

Appl. No.: 10/582,321

International
Filing Date: 12/10/2004

371(c) Date: 05/22/2007

Examiner: Phuong T. Bui

Art Unit: 1638

Confirmation 4952
Number:

PETITION UNDER 37 C.F.R. 1.182
FOR CORRECTION OF INTERNATIONAL APPLICATION NUMBER
FOR U.S. NATIONAL STAGE APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition the Commissioner for correction of the international application number for the captioned application, which entered the U.S. National Phase on June 9, 2006.

As a result of a clerical error, and without any deceptive intent, Applicants provided an incorrect international application number on the “Transmittal Letter To The United States . . . Concerning a Filing Under 35 U.S.C. 371” and on the Application Data Sheet, setting forth “PCT/IB2004/004119,” when the correct international application number is “PCT/IB2004/004419.”

That PCT/IB2004/004419 is the correct and intended international application number is supported by the identity of the title, inventors, Applicant/Assignee, international filing date, and priority claim to U.S. provisional application 60/528,777, that were set forth on the Transmittal Letter and ADS and that pertain to PCT/IB2004/004419, and by the copy of the published text of PCT/IB2004/004419 (WO 2005/055703) that also was submitted with the U.S. National Phase entry documents on June 9, 2006. A copy of the Transmittal Letter and ADS and the first page of WO 2005/055703 is submitted herewith.

Also submitted herewith is a copy of the stamped postcard confirming receipt by the U.S. receiving office of 28 pages of specification and claims and 6 sheets of Figures 1-6, which correspond to the page numbers and drawing sheets of PCT/IB2004/004419.

Applicants first learned of this error in early 2007, when Bernard Gregory in the U.S. Patent Office PCT Office alerted Applicants to the error by telephone. As requested by Bernard Gregory, Applicants filed by facsimile a new Transmittal Letter and ADS with the correct international application number. A copy of this facsimile is submitted herewith.

As the Notice of Acceptance and the official Filing Receipt issued on July 24, 2007, showed the correct international application number, Applicants believed that the error had been corrected.

On July 26, 2010, the Examiner assigned to the application advised Applicants that a Petition under 37 CFR 1. 181 is required to satisfy the formal requirements for correcting an error of this type. Thus, Applicants submit this petition to comply with these requirements.

Because the record shows that the incorrect international application number was provided as a result of a clerical error, and because other documents submitted with the U.S. National Phase entry documents on June 9, 2006 indicate the correct international application number (such as the copy of the published text of PCT/IB2004/004419 that was filed) and are consistent with the correct international application number, Applicants respectfully urge that this petition be promptly granted.

The petition fee required under 37 C.F.R. 1.17(f) is submitted herewith.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the

credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If there are any questions regarding this submission, the Patent Office is invited to contact the undersigned attorney of record at the telephone number set forth below.

Respectfully submitted,

Date July 28, 2010

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4094
Facsimile: (202) 672-5399

By Courtenay C. Brinckerhoff

Courtenay C. Brinckerhoff
Attorney for Applicant
Registration No. 37,288

COPY

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 049280-0102 10/582321
INTERNATIONAL APPLICATION NO. PCT/IB2004/004119	INTERNATIONAL FILING DATE 12/10/2004	PRIORITY DATE CLAIMED 12/12/2003
TITLE OF INVENTION METHOD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC HEMOGLOBIN		
APPLICANT(S) FOR DO/EO/US Robert D. Hill et al.		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none">1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371.2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371.3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.4. <input checked="" type="checkbox"/> The US has been elected (Article 31).5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2))<ul style="list-style-type: none"><input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).<input checked="" type="checkbox"/> has been communicated by the International Bureau.<input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US)6. <input checked="" type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).<ul style="list-style-type: none"><input checked="" type="checkbox"/> is attached hereto.<input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))<ul style="list-style-type: none"><input type="checkbox"/> are attached hereto (required only if not transmitted by the International Bureau).<input type="checkbox"/> have been communicated by the International Bureau.<input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.<input checked="" type="checkbox"/> have not been made and will not be made.8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).9. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).		
Items 11 to 20 below concern other document(s) or information included:		
<ol style="list-style-type: none">11. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. Form PTO/SB/08 and 7 references.12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.13. <input checked="" type="checkbox"/> A preliminary amendment.14. <input checked="" type="checkbox"/> An Application Data Sheet under 37 CFR 1.76.15. <input type="checkbox"/> A substitute specification.16. <input type="checkbox"/> A power of attorney and/or change of address letter.17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 – 1.82518. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4).19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).20. <input checked="" type="checkbox"/> Other items or information: International Search Report (3 pages).		

FORM PTO-1390 (Modified)

U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 107582321		INTERNATIONAL APPLICATION NO. PCT/IB2004/004119		ATTORNEY'S DOCKET NUMBER 049280-0102	
The following fees have been submitted:					
21. <input checked="" type="checkbox"/> Basic national fee		\$300		\$ 300.00	
22. <input checked="" type="checkbox"/> Examination fee					
If International preliminary examination report prepared by USPTO and all claims satisfy provisions of PCT Article 33(1)-(4)		\$100		\$ 200.00	
All other situations		\$200			
23. <input checked="" type="checkbox"/> Search fee					
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority		\$100			
International Search Report prepared and provided to the Office		\$400			
All other situations		\$500		\$ 400.00	
TOTAL OF ABOVE 21, 22 and 23 =				\$ 900.00	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$ for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
34	- 100 = 0 /50 =	0	x \$250.00	\$ 0.00	
Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(e))				\$ 130.00	
CLAIMS		NUMBER FILED	NUMBER EXTRA	RATE	\$
Total Claims	23	- 20 =	3	x \$ 50.00	\$ 150.00
Independent Claims	2	- 3 =	0	x \$ 200.00	\$ 0.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+ \$ 360.00	\$
TOTAL OF ABOVE CALCULATIONS =					\$ 1180.00
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.					\$ 590.00
SUBTOTAL =					\$ 590.00
Processing fee of 130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).					\$
TOTAL NATIONAL FEE =					\$ 590.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). 40.00 per property					\$
TOTAL FEES ENCLOSED =					\$ 590.00
				Amount to be refunded:	
				charged:	
<p>a. <input type="checkbox"/> A check in the amount of 590.00 to cover the above fees is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. <u>19-0741</u> in the amount of 590.00 to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>19-0741</u>. A duplicate copy of this sheet is enclosed.</p> <p>d. <input checked="" type="checkbox"/> Fees are to be charge to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.</p> <p>SEND ALL CORRESPONDENCE TO:</p> <p style="text-align: center;">Foley & Lardner LLP Customer Number: 22428</p>					
				<p style="text-align: center;"><i>Courtenay C. Brinckerhoff</i> SIGNATURE Courtenay C. Brinckerhoff NAME 37,288 REGISTRATION NUMBER</p>	

Application Information

Application Type::	Regular
Subject Matter::	Utility
Suggested classification::	
Suggested Group Art Unit::	
CD-ROM or CD-R?::	None
Computer Readable Form (CRF)?::	No
Title::	METHOD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC HEMOGLOBIN
Attorney Docket Number::	049280-0102
Request for Early Publication?::	No
Request for Non-Publication?::	No
Suggested Drawing Figure::	3
Total Drawing Sheets::	6
Small Entity?::	Yes
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

Applicant Information

Applicant Authority Type::	Inventor
Primary Citizenship Country::	Canadian
Status::	Full Capacity
Given Name::	Robert D.
Family Name::	Hill
City of Residence::	Winnipeg
State or Province of Residence::	Manitoba

Country of Residence:: Canada
Street of mailing address:: 34 McNulty Cres.
City of mailing address:: Winnipeg
State or Province of mailing address:: Manitoba
Country of mailing address:: Canada
Postal or Zip Code of mailing address:: R2M 5H4

Applicant Authority Type:: Inventor
Primary Citizenship Country:: Canadian
Status:: Full Capacity
Given Name:: Kevin
Family Name:: Baron
City of Residence:: Carberry
State or Province of Residence:: Manitoba
Country of Residence:: Canada
Street of mailing address:: Box 623
City of mailing address:: Carberry
State or Province of mailing address:: Manitoba
Country of mailing address:: Canada
Postal or Zip Code of mailing address:: R0K 0H0

Correspondence Information

Correspondence Customer Number:: 22428
E-Mail address:: PTOMailWashington@foley.com

Representative Information

Representative Customer Number::	22428	
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Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	National Stage of	PCT/IB2004/004119	12/10/2004
PCT/IB2004/004119	An application claiming the benefit under 35 USC 119(e)	60/528,777	12/12/2003

Foreign Priority Information

Country::	Application number::	Filing Date::	Priority Claimed::

Assignee Information

Assignee Name:: University of Manitoba

(57) Abstract: The present invention provides a method of modifying a plant phenotype by transforming a plant to alter the level of expression of non-symbiotic plant hemoglobin in the plant, whereby the transformed plant exhibits, under normal oxygen conditions, a plant phenotype that is modified as compared to a non-transformed plant. Plants exhibiting modified phenotypes under normal oxygen conditions also are provided. Methods of modifying the response to a plant hormone in a plant also are provided.

COPY

IAP15 Rec'd PCT/PTO 09 JUN 2006

Title: METHOD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC
HEMOGLOBIN

Inventor(s): Robert D. Hill

Dkt. No. 049280-0102

Appl. No.: Unassigned

CCBR

- Transmittal Letter to U.S. Designated/Elected Office (2 pgs. in duplicate);
- Credit Card Payment Form in the amount of \$590.00 (1 pg.);
- Application Data Sheet (3 pgs.);
- Preliminary Amendment (4 pgs);
- Specification and Claims (28 pgs);
- Formal Drawings (6 sheets of Figs. 1-6);
- Information Disclosure Statement (2 pgs);
- PTO/SB/08 (1 pg., including 7 references);
- International Search Report (3 pgs).

Attorney Initials: CCBR/am/smw

Date Filed: June 9, 2006

Insp. By:

WASH_1627566.1

*** TX REPORT ***



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FOLEY

FOLEY & LARDNER LLP
ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET NW, SUITE 500
WASHINGTON, D.C. 20007-5143
TELEPHONE: 202.872.5300
FACSIMILE: 202.872.5399
WWW.FOLEY.COM

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Total # of Pages : 6 (including this page)

TO:	PHONE #:	FAX #:
Patent Cooperation Treaty (PCT) Office DONNA GREEN		703-305-3230

From : Stella Walker
Date : 04/18/2007
Client/Matter No : 049280-0102
User ID No : 09863

Dear Ms. Green,

Per Bernard Gregory, attached is a corrected National Phase Transmittal for PCT/IB2004/004419, and a Supplemental Application Data Sheet.

At your earliest convenience, please forward to us a new Notification of Missing Requirements for Serial No. 10/582,321. If you have any questions, please do not hesitate to call me at (202) 945-6094.

Best regards,

Stella Walker

FACSIMILE TRANSMISSION

ORIGINAL FAX TRANSMISSION WILL BE SENT BY U.S. MAIL

Total # of Pages : 6 (including this page)

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Best regards,


Stella Walker

P.S. You guys are AWESOME!!!!

If there are any problems with this transmission or if you have not received all of the pages, please call .

Operator:	Time Sent:	Return Original To: Stella Walker
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CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

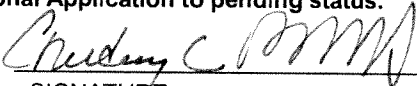
CORRECTED

FORM PTO-1390 (Modified)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

(REV 12-2004)

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 049280-0102
INTERNATIONAL APPLICATION NO. PCT/IB2004/004419		U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5) 10/582,321
INTERNATIONAL FILING DATE 12/10/2004	PRIORITY DATE CLAIMED 12/12/2003	
TITLE OF INVENTION METHOD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC HEMOGLOBIN		
APPLICANT(S) FOR DO/EO/US Robert D. Hill et al.		
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U.S. APPLICATION NO. (if known, see 37 CFR. 1.5) 10/582,321		INTERNATIONAL APPLICATION NO. PCT/IB2004/004419		ATTORNEY'S DOCKET NUMBER 049280-0102	
The following fees have been submitted:					
21. <input checked="" type="checkbox"/> Basic national fee		\$300		\$	
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All other situations		\$200			
23. <input checked="" type="checkbox"/> Search fee					
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority		\$100			
International Search Report prepared and provided to the Office		\$400			
All other situations		\$500		\$	
TOTAL OF ABOVE 21, 22 and 23 =				\$	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$ for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra sheets	Number of each additional 50 or fraction thereof (round up to a whole number)		RATE	
34 - 100 = 0	/50 =	0		x \$250.00	\$
Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(e))				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		\$
Total Claims	23 - 20 = 3		x \$ 50.00		\$
Independent Claims	2 - 3 = 0		x \$ 200.00		\$
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$ 360.00		\$
TOTAL OF ABOVE CALCULATIONS =				\$	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.				+	
SUBTOTAL =				\$	
Processing fee of 130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				\$	
TOTAL NATIONAL FEE =				\$	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). 40.00 per property				\$	
TOTAL FEES ENCLOSED =				\$	
				Amount to be refunded:	
				charged:	
<p>a. <input type="checkbox"/> A check in the amount of 590.00 to cover the above fees is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. <u>19-0741</u> in the amount of 590.00 to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>19-0741</u>. A duplicate copy of this sheet is enclosed.</p> <p>d. <input checked="" type="checkbox"/> Fees are to be charge to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.</p> <p>SEND ALL CORRESPONDENCE TO:</p> <p style="margin-left: 40px;">Foley & Lardner LLP Customer Number: 22428</p> <div style="text-align: right; margin-right: 40px;">  SIGNATURE Courtenay C. Brinckerhoff NAME 37,288 REGISTRATION NUMBER </div>					

Supplemental Application Data Sheet

Application Information

Application Type::	Regular
Subject Matter::	Utility
<u>Application No.:</u>	<u>10/582,321</u>
Suggested classification::	
Suggested Group Art Unit::	
CD-ROM or CD-R?::	None
Computer Readable Form (CRF)?::	No
Title::	METHOD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC HEMOGLOBIN
Attorney Docket Number::	049280-0102
Request for Early Publication?::	No
Request for Non-Publication?::	No
Suggested Drawing Figure::	3
Total Drawing Sheets::	6
Small Entity?::	Yes
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

Applicant Information

Applicant Authority Type::	Inventor
Primary Citizenship Country::	Canadian
Status::	Full Capacity
Given Name::	Robert D.
Family Name::	Hill
City of Residence::	Winnipeg

State or Province of Residence:: Manitoba
Country of Residence:: Canada
Street of mailing address:: 34 McNulty Cres.
City of mailing address:: Winnipeg
State or Province of mailing address:: Manitoba
Country of mailing address:: Canada
Postal or Zip Code of mailing address:: R2M 5H4

Applicant Authority Type:: Inventor
Primary Citizenship Country:: Canadian
Status:: Full Capacity
Given Name:: Kevin
Family Name:: Baron
City of Residence:: Carberry
State or Province of Residence:: Manitoba
Country of Residence:: Canada
Street of mailing address:: Box 623
City of mailing address:: Carberry
State or Province of mailing address:: Manitoba
Country of mailing address:: Canada
Postal or Zip Code of mailing address:: R0K 0H0

Correspondence Information

Correspondence Customer Number:: 22428
E-Mail address:: PTOMailWashington@foley.com

Representative Information

Representative Customer Number::	22428	
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Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	National Stage of	PCT/IB2004/004119	12/10/2004
<u>This Application</u>	<u>National Stage of</u>	<u>PCT/IB2004/004419</u>	<u>12/10/2004</u>
PCT/IB2004/004119	An application claiming the benefit under 35 USC 119(e)	60/528,777	12/12/2003

Foreign Priority Information

Country::	Application number::	Filing Date::	Priority Claimed::

Assignee Information

Assignee Name:: University of Manitoba